



November 3, 2003

RE: OPPOSITION – 2005 ENERGY EFFICIENCY REGULATIONS
– OUTDOOR LIGHTING STANDARDS

Honorable Members of the Energy Commission

The California Sign Association, representing over 3,000 industry professionals, has worked diligently and cooperatively for over a year with CEC staff to address myriad concerns regarding the application of the proposed regulations and to assist in fashioning manageable options related to on-premise business signage. CSA is committed to energy savings and we strive to educate our membership on the latest technological advances and efficiencies.

However, while we have achieved consensus in many areas, we remain fundamentally opposed and object to any regulations which seek to impose limitations based on census zone, whether or not applicable to signage.

It is commonly understood that other states look to California on issues of energy efficiency, but regulating energy consumption by census zones has never been employed nor tested anywhere. Further, this speculative approach is wholly inconsistent with the mandate of SB 5X, which provides that the efficiency “standards shall be technologically feasible and cost effective.” [Public Resources Code §25402.5(3)(c)]. Nowhere stated is there any authorization for the use of census as the basis for the standards, nor has any study been conducted to determine the cost effectiveness of such proposal.

The definition for lighting zones in the 2005 language is also inconsistent with other national and international standards. Both IESNA and CIE base their standards on the more reasonable approaches of ambient lighting based on “environmental zones,” e.g., “intrinsically dark,” medium district or “high,” etc., the latter including “town centres and commercial areas,” for example.

Whereas, CEC’s proposal disregards the ambient lighting concept, basing instead its reasoning on population. We do not concur with the CEC consultants’

conclusion that merely because the eye will adjust to ambient lighting that energy will be saved or that sufficient illumination exists for safety purposes. Merely because the standards allow a municipality to “upgrade” a zone does not justify the establishment of such limitations or burdensome public processes when the very concept is flawed. In fact, it’s our understanding that even the League of California Cities is opposed to this process, which in effect amounts to a new layer of zoning.

In addition to the census zone concept as described in the proposed regulations, the CEC website has posted an outdoor lighting document describing census zones¹. To our knowledge, neither the document nor its posting was approved by the Commission at any public hearing; yet, it appears online as the *de facto* official policy of the CEC and thus by implication the State of California. This is not only misleading, but suggests the State has endorsed the use of census zones after careful deliberation, when in fact this is not yet the case.

While signage, as a result of our efforts, is thankfully and properly excluded from the census standard, we believe the Commission, if it adopts the census guideline will subject the regulations to years of litigation. There is simply no evidence to support the consultants’ supposition that less electricity (i.e., lower power densities) can be used for a project in commercial zone depending on the population of the area. Moreover, given that a “demand reduction” analysis has not been performed based on the proposed standards, there is insufficient data for the Commission to determine whether any real energy savings will be achieved.

We are further convinced that the affiliation of some of the CEC consultants on this project who also serve on the Board of Directors of the International Dark Skies association is so suspect as to taint the impartiality of the regulations, making any approval a tacit acceptance of the Dark Skies agenda. In so doing, CEC steps outside the bounds of the mandate of 5X. In fact, one of the consultants has written a Model Lighting Ordinance for Dark Skies, which appears on its website (<http://darksky.org/ordsregs/modliord.html>), and which is being promoted by its members throughout the country.² The very language of the Dark Skies mission appeared practically verbatim on the consultants’ June 6, 2002 Outdoor Lighting Research report prepared for the CEC. (See “Rationale,” p. 2). Yet, that rationale, which has carried forward unchecked through today, has nothing to do with energy savings, but was instead focused on “light trespass” and “sky glow” – concerns well beyond the scope of 5X.

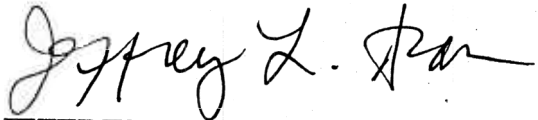
http://www.energy.ca.gov/2005_standards/rulemaking/lighting_zones.html

² See also <http://darksky.org/ordsregs/mlc/idamolc.pdf> for Jim Benya’s online Powerpoint presentation promoting Dark Skies census-based agenda.

We have previously addressed a number of these issues and submitted to the CEC a thorough analysis and objection to the regulations on grounds pertaining to their unconstitutionality and the Dark Skies impropriety as noted. While some of our issues have been resolved, we hereby incorporate our prior comments by reference. Said letter may be located at www.calsign.org.

We urge the Commission to vote NO on the use of census zones for any purpose. It is unauthorized by law and simply has no basis in fact or science.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey L. Aran". The signature is fluid and cursive, with the first name "Jeffrey" being the most prominent part.

JEFFREY L. ARAN, Esq.
Director of Government Affairs
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cc: Mark Gastineau
Steve Jones
Peggy Thomas